

UNITED STATES DISTRICT COURT
Northern District of California

MARIO J. URROZ, CORINNE T. NGUYEN,

No. C 12-302 MEJ

Plaintiffs,

**ORDER FOR CLERK OF COURT TO
REASSIGN CASE**

v.

WASHINGTON MUTUAL BANK,

REPORT & RECOMMENDATION

Defendant.

On January 19, 2012, Plaintiffs Mario J. Urroz and Corinne T. Nguyen filed the above-captioned complaint, at which time the case was scheduled for a Case Management Conference on May 3, 2012. Dkt. Nos. 1, 2. However, as there is no indication that Defendant has been served and no joint case management statement had been filed, the Court vacated May 3 conference and ordered Plaintiffs Mario J. Urroz and Corinne T. Nguyen to show cause why this case should not be dismissed for failure to prosecute and failure to comply with court deadlines. Dkt. No. 3. The Court ordered Plaintiffs to file a declaration by May 10, 2012, and a hearing on May 24, 2012. The Court advised Plaintiffs that it may dismiss the case without a hearing if they fail to file a responsive pleading. Plaintiffs have failed to respond. Based on this procedural history, the Court finds it appropriate to dismiss this case pursuant to Federal Rule of Civil Procedure 41(b).

Under Rule 41(b), failure to comply with a court order can warrant dismissal. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). In “determining whether to dismiss a case for failure to comply with a court order, the district court must weigh five factors including ‘(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.’” *Id.* at 1260-61 (quoting *Thompson v. Housing Auth.*,

1 782 F.2d 829, 831 (9th Cir. 1986)). Here, Plaintiffs failed to comply with Court orders and
2 deadlines, failed to respond to the order to show cause, and have made no appearance in this matter
3 since filing the complaint. Thus, the Court finds that the *Ferdik* factors weigh in favor of dismissal.

4 Accordingly, because Plaintiffs have yet to consent to the undersigned's jurisdiction, the
5 Court hereby ORDERS the Clerk of Court to reassign this case to a district court judge. The
6 undersigned RECOMMENDS that the newly-assigned judge dismiss this case for failure to
7 prosecute and failure to comply with the Court's deadlines and orders.

8 Pursuant to Federal Rule of Civil Procedure 72, Plaintiffs may serve and file objections to
9 this Report and Recommendation within 14 days after being served.

10 **IT IS SO ORDERED AND RECOMMENDED.**

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12 Dated: May 15, 2012

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14 Maria-Elena Jones
15 Chief United States Magistrate Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

MARIO-J URROZ,
Plaintiff,

Case Number: 12-00302 MEJ

v.

CERTIFICATE OF SERVICE

WASHINGTON MUTUAL BANK,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 15, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Mario J. Urroz
Corinne Nguyen
23 Baypark
South San Francisco, CA 94080

Dated: May 15, 2012

Richard W. Wieking, Clerk
By: Rose Maher, Deputy Clerk